

AMENDED IN SENATE APRIL 21, 2009

AMENDED IN SENATE APRIL 2, 2009

## SENATE BILL

**No. 671**

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### Introduced by Senator Runner

February 27, 2009

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An act to amend ~~Sections 51203 and 51283.5~~ *Section 51203* of the Government Code, relating to local government.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 671, as amended, Runner. Agricultural land: valuation.

Existing law requires the county assessor to assess current fair market valuations to determine the cancellation fee for removing land from a Williamson Act contract. Existing law permits the Department of Conservation or the landowner, if either believes that the current fair market valuations are inaccurate, to request formal review from the county assessor in the county considering the cancellation petition. ~~Existing law requires the county assessor to formally review the valuation upon receiving a request for formal review if he or she determines that additional information submitted by the requesting party may have a material effect on the valuation of the property.~~

This bill would instead authorize the department or the landowner to hire an independent fee appraiser to obtain an independent fee appraisal within 45 days of receipt of the assessor's appraisal. The bill would also require the board or council, if the department and the landowner cannot agree on which valuation is correct, to hire or appoint a mediator to make the final determination. The bill would make other conforming changes and authorizes the assessor to recover his or her reasonable costs of the formal review from the party requesting the review, as specified.

*This bill would authorize the assessor to require a deposit to cover the contingency that payment of a cancellation fee will not necessarily result from the completion of a formal review, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 51203 of the Government Code is*  
2     *amended to read:*

3     51203. (a) The assessor shall determine the current fair market  
4     value of the land as if it were free of the contractual restriction  
5     pursuant to Section 51283. The Department of Conservation or  
6     the landowner, also referred to in this section as “parties,” may  
7     provide information to assist the assessor to determine the value.  
8     Any information provided to the assessor shall be served on the  
9     other party, unless the information was provided at the request of  
10    the assessor, and would be confidential under law if required of  
11    an assessee.

12    (b) Within 45 days of receiving the assessor’s notice pursuant  
13    to subdivision (a) of Section 51283 or 51283.4, if the Department  
14    of Conservation or the landowner believes that the current fair  
15    market valuation certified pursuant to subdivision (b) of Section  
16    51283 or Section 51283.4 is not accurate, the department or the  
17    landowner may request formal review from the county assessor  
18    in the county considering the petition to cancel the contract. The  
19    department or the landowner shall submit to the assessor and the  
20    other party the reasons for believing the valuation is not accurate  
21    and the additional information the requesting party believes may  
22    substantiate a recalculation of the property valuation. The assessor  
23    may recover his or her reasonable costs of the formal review from  
24    the party requesting the review, and may provide an estimate of  
25    those costs to the requesting party. The recovery of these costs  
26    from the department may be deducted by the city or county from  
27    the cancellation fees received pursuant to this chapter prior to  
28    transmittal to the Controller for deposit in the Soil Conservation  
29    Fund. *The assessor may require a deposit to cover the contingency*  
30    *that payment of a cancellation fee will not necessarily result from*  
31    *the completion of a formal review. This subdivision shall not be*  
32    *construed as a limitation on the authority provided in Section*

1 *51287 for cities or counties to recover their costs in the*  
2 *cancellation process, except that the assessor's costs of conducting*  
3 *a formal review shall not be borne by the nonrequesting party.*

4 (1) If no request is made within 45 days of receiving notice by  
5 certified mail of the valuation, the assessor's valuation shall be  
6 used to calculate the fee.

7 (2) Upon receiving a request for formal review, the assessor  
8 shall formally review his or her valuation if, based on the  
9 determination of the assessor, the information may have a material  
10 effect on valuation of the property. The assessor shall notify the  
11 parties that the formal review is being undertaken and that  
12 information to aid the assessor's review shall be submitted within  
13 30 days of the date of the notice to the parties. Any information  
14 submitted to the assessor shall be served on the other party who  
15 shall have 30 days to respond to that information to the assessor.  
16 If the response to the assessor contains new information, the party  
17 receiving that response shall have 20 days to respond to the  
18 assessor as to the new information. All submittals and responses  
19 to the assessor shall be served on the other party by personal service  
20 or an affidavit of mailing. The assessor shall avoid ex parte contacts  
21 during the formal review and shall report any such contacts to the  
22 department and the landowner at the same time the review is  
23 complete. The assessor shall complete the review no later than 120  
24 days of receiving the request.

25 (3) At the conclusion of the formal review, the assessor shall  
26 either revise the cancellation valuation or determine that the  
27 original cancellation valuation is accurate. The assessor shall send  
28 the revised valuation or notice of the determination that the  
29 valuation is accurate to the department, the landowner, and the  
30 board or council considering the petition to cancel the contract.  
31 The assessor shall include a brief narrative of what consideration  
32 was given to the items of information and responses directly  
33 relating to the cancellation value submitted by the parties. The  
34 assessor shall give no consideration to a party's information or  
35 response that was not served on the other party. If the assessor  
36 denies a formal review, a brief narrative shall be provided to the  
37 parties indicating the basis for the denial, if requested.

38 (c) For purposes of this section, the valuation date of any revised  
39 valuation pursuant to formal review or following judicial challenge  
40 shall remain the date of the assessor's initial valuation, or his or

her initial recomputation pursuant to Section 51283.4. For purposes of cancellation fee calculation in a tentative cancellation as provided in Section 51283, or in a recomputation for final cancellation as provided in Section 51283.4, a cancellation value shall be considered current for one year after its determination and certification by the assessor.

(d) Notwithstanding any other provision of this section, the department and the landowner may agree on a cancellation valuation of the land. The agreed valuation shall serve as the cancellation valuation pursuant to Section 51283 or Section 51283.4. The agreement shall be transmitted to the board or council considering the petition to cancel the contract.

(e) This section represents the exclusive administrative procedure for appealing a cancellation valuation calculated pursuant to this section. The Department of Conservation shall represent the interests of the state in the administrative and judicial remedies for challenging the determination of a cancellation valuation or cancellation fee.

~~SECTION 1. Section 51203 of the Government Code is amended to read:~~

~~51203. (a) The assessor shall determine the current fair market value of the land as if it were free of the contractual restriction pursuant to Section 51283. The Department of Conservation or the landowner, also referred to in this section as “parties,” may provide information to assist the assessor to determine the value. Any information provided to the assessor shall be served on the other party, unless the information was provided at the request of the assessor, and would be confidential under law if required of an assessee.~~

~~(b) Within 45 days of receiving the assessor’s notice pursuant to subdivision (a) of Section 51283 or 51283.4, if the Department of Conservation or the landowner believes that the current fair market valuation certified pursuant to subdivision (b) of Section 51283 or Section 51283.4 is not accurate, the department or the landowner may hire a fee appraiser to complete an independent fee appraisal, and notify the assessor in writing that the department or landowner has hired the fee appraiser.~~

~~(1) If no notice of a challenge of the initial valuation is submitted to the assessor within 45 days of receiving notice by certified mail~~

1 of the valuation, the assessor's valuation shall be used to calculate  
2 the fee.

3 (2) If a challenge to the valuation is made, the challenging party  
4 shall, within 30 days of notifying the assessor of the challenge,  
5 provide the independent valuation to the assessor.

6 (3) If the department and the landowner cannot agree on which  
7 valuation is correct, the board or council considering the petition  
8 to cancel the contract shall hire or appoint a mediator to make the  
9 final determination. At least 30 calendar days prior to consideration  
10 by the board or council, the assessor shall provide the board or  
11 council a copy of the original valuation and any independent  
12 valuations the assessor has received. The mediator's final  
13 determination of value shall control.

14 (e) For purposes of this section, the valuation date of any revised  
15 valuation pursuant to formal review or following judicial challenge  
16 shall remain the date of the assessor's initial valuation, or his or  
17 her initial recomputation pursuant to Section 51283.4. For purposes  
18 of cancellation fee calculation in a tentative cancellation as  
19 provided in Section 51283, or in a recomputation for final  
20 cancellation as provided in Section 51283.4, a cancellation value  
21 shall be considered current for one year after its determination and  
22 certification by the assessor.

23 (d) Notwithstanding any other provision of this section, the  
24 department and the landowner may agree on a cancellation  
25 valuation of the land. The agreed valuation shall serve as the  
26 cancellation valuation pursuant to Section 51283 or Section  
27 51283.4. The agreement shall be transmitted to the board or council  
28 considering the petition to cancel the contract.

29 (e) This section represents the exclusive administrative  
30 procedure for appealing a cancellation valuation calculated pursuant  
31 to this section. The Department of Conservation shall represent  
32 the interests of the state in the administrative and judicial remedies  
33 for challenging the determination of a cancellation valuation or  
34 cancellation fee.

35 SEC. 2. Section 51283.5 of the Government Code is amended  
36 to read:

37 51283.5. (a) The Legislature finds and declares that  
38 cancellation fees should be calculated in a timely manner and  
39 disputes over cancellation fees should be resolved before a city or  
40 county approves a tentative cancellation. However, the city or

~~1 county may approve a tentative cancellation notwithstanding  
2 notification of an independent fee appraisal or judicial challenge  
3 to the cancellation value or fee.~~

~~4 (b) If the valuation changes after the approval of a tentative  
5 cancellation, the certificate of tentative cancellation shall be  
6 amended to reflect the correct valuation and cancellation fee.~~

~~7 (c) If the landowner wishes to pay a cancellation fee when an  
8 independent fee appraisal is pending, he or she may pay the fee  
9 required in the current certificate of cancellation and provide  
10 security determined to be adequate by the Department of  
11 Conservation for 20 percent of the cancellation fee based on the  
12 assessor's valuation. The board or council shall hold the security  
13 and release it immediately upon full payment of the cancellation  
14 fee determined pursuant to Section 51203.~~

~~15 (d) The city or county may approve a final cancellation  
16 notwithstanding a pending independent fee appraisal or judicial  
17 challenge to the cancellation valuation or fee. The certificate of  
18 final cancellation shall include the following statements:~~

~~19 (1) That independent fee appraisal or judicial challenge of the  
20 cancellation valuation or fee is pending.~~

~~21 (2) That the fee may be adjusted, based upon the outcome of  
22 the results of the independent fee appraisal or challenge.~~

~~23 (3) The identity of the party who will be responsible for paying  
24 any additional fee or will receive any refund.~~

~~25 (4) The form and amount of security provided by the landowner  
26 or other responsible party and approved by the Department of  
27 Conservation.~~

~~28 (e) Upon resolution, the landowner or the party identified in the  
29 certificate shall either pay the balance owed to the county treasurer;  
30 or receive from the county treasurer or the controller any amount  
31 of overpayment, and shall also be entitled to the immediate release  
32 of any security.~~

~~33 (f) (1) If a party does not receive the notice required pursuant  
34 to Section 51203, 51283, 51283.4, or 51284, a judicial challenge  
35 to the cancellation valuation may be filed within three years of the  
36 latest of the applicable following events:~~

~~37 (A) The board or council certification of the fee pursuant to  
38 subdivision (b) of Section 51283, or for fees recomputed pursuant  
39 to Section 51283.4, the execution of a certificate of cancellation  
40 under that section.~~

1     ~~(B) The date of the assessor's determination pursuant to~~  
2     ~~paragraph (3) of subdivision (b) of Section 51203.~~

3     ~~(C) The service of notice to the Director of Conservation of the~~  
4     ~~board or council's recorded certificate of final cancellation.~~

5     ~~(2) If a party did receive the required notice pursuant to Section~~  
6     ~~51203, 51283, 51283.4, or 51284, a judicial challenge to the~~  
7     ~~cancellation valuation may be filed only after the party has~~  
8     ~~exhausted his or her administrative remedies through the~~  
9     ~~independent fee appraisal process specified in Section 51203, and~~  
10    ~~only within 180 days of the latest of the applicable following~~  
11    ~~events:~~

12    ~~(A) The board or council certification of the fee pursuant to~~  
13    ~~subdivision (b) of Section 51283 or for fees recomputed pursuant~~  
14    ~~to Section 51283.4, the execution of a certificate of cancellation~~  
15    ~~under that section.~~

16    ~~(B) The date of the assessor's determination pursuant to~~  
17    ~~paragraph (3) of subdivision (b) of Section 51203.~~

18    ~~(C) The service of notice to the Director of Conservation or the~~  
19    ~~board or council's recorded certificate of final cancellation.~~